States in deciding the same question when it comes before them. *Bank of America* v. *Waydell,* 92 N. Y. Supp. 666; *Milius* v. *Kauffman,* 93 N. Y. Supp. 669. Virginia, however, has allowed such transferee to be a holder for value to the extent of the amount due him, *Payne* v. *Zell,* 98 Va. 294; while Wisconsin, on the other hand, has added a section to the statute, providing expressly that a note so transferred is not held for value.

COMMON CARRIERS—SPECIAL SERVICE.—Plaintiff, a corporation, owning a quarry at Barre, N. H., contracted with the Philadelphia chapter of the Daughters of the Confederacy to furnish and erect a soldier's monument in Hollywood Cemetery, Richmond, Va., for $1,500. On October 21st, plaintiff consigned the monument to itself at Richmond and it reached Jersey City on October 23rd, where a representative of plaintiff applied to the defendant company to have the car go out that day with a certain through train which, by the regular schedule, would have reached Richmond about noon, October 24th. But, arrangements having been made to dedicate the monument on October 25th, the association, fearing the monument would not arrive in time, had applied for and obtained from the defendant company special service for the car at a cost of $700. Wherefore plaintiff's application for regular service was refused and the special service was granted, for which the association paid defendant $700. When the monument was erected the association paid the plaintiff $800, deducting the cost of the special service. Whereupon plaintiff brought an action against defendant to recover the said sum of $700. The lower court directed a verdict for plaintiff. *Held,* that the case should have gone to the jury, but if found that defendant, with knowledge of all the facts, refused its regular service, plaintiff could recover. *Harrison Granite Co.* v. *Pennsylvania R. Co.* (1906), — Mich. —, 108 N. W. Rep. 1081.

This case is interesting because of the peculiar state of facts. OSTRANDER, J., in rendering the opinion of the court says in effect that, the facts established a breach of duty of defendant in refusing regular service and a wrongful interference with the rights of plaintiff, to its damage and to defendant's profit. Inasmuch as the contract of carriage was made by the plaintiff and the car consigned to itself at Richmond, the association had no authority whatsoever in directing the route or service of the freight, for the carriage of the goods should be according to the instructions and orders of the owner. In *Schureman* v. *Withers,* Anthon's N. P. (N. Y.) 230, it was held that if a carrier transported goods against the express orders of the owner, it was a gratuitous act and carrier was not entitled to compensation. In *Railroad Co.* v. *Chicago Lumber Co.,* 15 Neb. 390, a load of coal was wrongfully turned from the direct route so as to go a roundabout way, and this caused an additional freight charge. It was held that there was no rule of law which will permit a carrier to wrongfully change the route of its freight and thus increase the cost of transportation.

CONFLICT OF LAWS—DEFENSE TO AN ACTION OF TORT.—In a suit in North Carolina, brought by an employee against the railroad for injuries resulting from its negligence, which tort was committed in South Carolina, the rail-

road sets up as a defense, a contract made with it by the plaintiff in South Carolina. This contract by its terms, exempted the railroad from liability for injuries resulting from its negligence, the consideration being that the railroad should contribute certain amounts to the relief department of which the plaintiff, at the time of his entering the employment, became a member. In South Carolina a contract of this kind was held to be good, providing the employee, after receiving the injury, received benefits from the relief department. The suit was brought in North Carolina and the court *held,* that the validity of the contract should be governed by the law of the place where made, namely, South Carolina. CLARK, C. J., gave a dissenting opinion. *Cannaday* v. *Atlantic Coast Line R. Co.* (1906), — N. C. —, 55 S. E. Rep. 836.

It is settled that matters bearing upon the execution, interpretation and validity of a contract are determined by the law of the place where it is made. *Scudder* v. *National Union Bank,* 91 U. S. 406; *Jacobs* v. *Credit Lyonais,* 12 Q. B. 589; *Philadelphia Loan Co.* v. *Towner and Another,* 13 Conn. 249; *Besse* v. *Pellochaux et al.,* 73 Ill. 285; and, unless a contrary intent is shown by the parties, the law of that jurisdiction will govern. The court seems to place its decision upon this ground, but it is submitted that the vital question in this case is, what law shall govern the defenses which may be pleaded to an action of tort, the *lex fori* or the *lex loci delicti?* The dissenting opinion claims that it is a question to be decided by the *lex fori.* But the general rule is well settled that the *lex loci delicti* governs the right of an injured person to sue for a tort, the liability of the perpetrator, and the defenses which may be pleaded, MINOR, CONFLICT OF THE LAWS, p. 484; *Le Forrest* v. *Tolman,* 117 Mass. 109; *Helton* v. *Alabama Midland R. R. Co.,* 97 Alabama 275; *Railway Co.* v. *Lewis,* 89 Tenn. 235; *Bridger* v. *Railroad Co.,* 27 S. C. 456; *May* v. *Smith,* 32 New Brunswick 474. Therefore since the act of the plaintiff in accepting the benefits under the contract, was a good and valid defense to the tort in South Carolina, the *locus delicti,* it was a valid defense in North Carolina, the forum of the action, no matter what its general law on the validity of such contracts might be.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—EQUAL PROTECTION OF THE LAWS—SERVICE ON STATE AUDITOR AS ATTORNEY FOR CORPORATION.—Writ of error to review the judgment of the Supreme Court of Appeals of West Virginia, awarding a peremptory writ of mandamus, commanding a non-resident domestic corporation to comply with the provisions of Chap. 39 of the Acts of 1905, which required non-resident domestic corporations and foreign corporations doing business within the State, to appoint the State Auditor their attorney to accept service of process and notice, and to pay him therefor $10 annually, by him to be turned into the State treasury. In compliance with an earlier statute the company had appointed as its attorney a resident of the county in which it did business. *Held,* the Act did not deprive the company of liberty of contract, nor deny it the equal protection of the laws; that the enactment of this law was within the reserved power of the State to amend corporate charters. *St. Mary's Franco-American Petroleum Co.* v. *State of West Virginia* (1906), 27 Sup. Ct. Rep. 132.